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MONDAY, APRIL 10, 1978
PART VI

DEPARTMENT OF TRANSPORTATION

Coast Guard

■

VISUAL DISTRESS SIGNALS ON BOATS

Proposed Rulemaking

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 175]

[CGD 76-183]

VISUAL DISTRESS SIGNALS ON BOATS

AGENCY: U.S. Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing that all boats carrying six or less passengers and recreational boats 16 feet or greater in length be required to carry visual distress signals at all times when operating on coastal waters. Additionally, boats less than 16 feet will be required to carry visual distress signals when operating on coastal waters at night. This proposed rule will provide boaters in distress with a means of alerting others and also aid in the location of craft in distress.

DATES: Comments must be received on or before August 8, 1978.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81) U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Copies of studies referenced in this document are available for examination at the above address. A copy of the economic evaluation from which the economic summary in this document is taken is also available for examination at this address.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81) Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments. Written comments should include the docket number (CGD 76-183), the name and address of the person submitting the comments and the specific section of the proposal to which each comment is addressed. The proposal may be changed in light of comments received before final action on this proposal. No hearing is contemplated, but one may be held at a time and place set out in a later notice in the FEDERAL REGISTER, if requested by a person or organization desiring to comment orally at a public hearing and raising a genuine issue.

DRAFTING INFORMATION

The principal persons involved in the drafting of this rulemaking are: A. R. Thuring, Project Manager, Office of Boating Safety; G. S. Karavitis, Project Counsel, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

The purpose of this proposed rule is to require operators of boats carrying 6 or less passengers and boats 16 feet or greater in length to carry visual distress signals on board when operating in coastal waters. Boats under 16 feet operating at night on coastal waters would also be required to carry visual distress signals. In addition, it lists those devices which may be used to meet the proposed carriage requirement.

This document does not contain specifications for these devices. New specifications for red aerial pyrotechnics, electric distress lights, and distress flags are contained in CGD 76-183a, which will be published in a future issue of the FEDERAL REGISTER. Changes to the existing specifications of other distress signals approved by the Coast Guard are contained in CGD 76-048a, which will also be published in a future issue of the FEDERAL REGISTER.

The Coast Guard, in 46 CFR 180.35, has required distress signals on vessels carrying more than six passengers for many years. Extension of a similar requirement to commercial vessels carrying 6 or less passengers ensures that all passengers on United States flag vessels, either ships or boats are assured a minimum margin of preparedness for distress situations.

The Coast Guard believes that a visual signaling device on recreational boats would be effective in many search and rescue situations. Visual distress signals increase the chances for alerting others of a distress situation and reduce the time spent locating the distressed boat. This reduces the risks created by prolonged distress situations. A Coast Guard Search and Rescue (SAR) study determined that 45 percent of those search and rescue incidents examined would have been facilitated if the operators had possessed a means to alert others of their predicament or to assist in determining their location.

In two other surveys conducted by the Coast Guard more than 25 percent of those borders questioned stated that they had a need for a distress signal on coastal waters at least once when they were not carrying one.

Coast Guard records on SAR cases indicate that for Fiscal Year 1976, the most recent data available, there were 49,800 cases involving recreational boats. This figure has been increasing at an annual rate of 6 percent for the last several years and represents only those SAR cases where the Coast Guard responds.

The same data indicate that 86 percent of all cases the Coast Guard responds to are within 3 miles of shore, and 95 percent of these cases are within 10 miles of shore. This pattern has remained stable for the last twelve years.

Finally, the proportion of boats under 16 feet assisted by the Coast Guard has been slowly declining from 14 percent in 1972 to 12 percent in 1976. This has occurred despite the fact that 65 percent of the estimated 10,000,000 recreational boats in this country as of December 1976 were under 16 feet.

In January 1975, the National Boating Safety Advisory Council (NBSAC) was consulted. They concurred with the Coast Guard that a need for visual distress signaling equipment on boats exists.

The NBSAC Subcommittee on Visual Distress Signals and the Coast Guard also conducted a field demonstration of over 65 different devices at Matapeake, Md. on Chesapeake Bay December 16, 1976. Notice of that demonstration was published in the FEDERAL REGISTER on November 29, 1976 (41 FR 52351). The report of that demonstration was submitted to the National Boating Safety Advisory Council by the chairman of the subcommittee on Visual Distress Signals on February 2, 1977. That report has been considered by the Coast Guard in the development of this proposed rule.

On September 27, 1976 the Coast Guard published an Advanced Notice of Proposed Rulemaking for Visual Distress Signals on Boats, (41 FR 42218). Its purpose was to solicit public input on this question. Over 150 comments were received, the largest group being from private individuals who own or operate boats.

A summary of respondents shows the following breakdown.

	Percent
Private individuals	44
Indsustry	17
Organized groups	13
State Boating law administrators	13
Other governmental bodies	4
Media	1
Other	8

Many of the suggestions in those comments have been incorporated in this proposed rule.

Approximately 25 percent of the comments received opposed rulemaking on this issue. Slightly less than half of those in opposition limited their comments to canoes, kayaks, inflatable rafts, and other manually propelled craft operating on inland rivers and lakes. They argued that a shore is always close at hand, and a need for distress signaling is minimal. The Coast Guard concurs with their position, and has limited the scope of this

proposal to exclude these bodies of water.

The remainder of those in opposition to any visual distress signal requirements objected to the infringement of government in what they perceive to be a matter of personal choice. Most stated that they personally carried such devices, but questioned the wisdom or effectiveness of a federal requirement.

The Coast Guard questions the contention that people who need these devices already carry them. Our studies show that only about 30 percent of all boaters on coastal waters carry these devices at the present time. It appears that a significant number of people who have need of these devices are not carrying them when the need occurs. Given the problems encountered by both the Coast Guard and other SAR response organizations in locating craft in distress, this requirement is warranted. In addition, most distress cases are handled by other boaters in the vicinity. By requiring boats to carry a means of signaling their distress, the Coast Guard is improving the chances that a distressed boat will be recognized and assisted by other boats near it.

Finally, research into devices currently carried by boaters as distress signals has uncovered problems of both safety and effectiveness in these signals. Trained personnel have on occasion been injured using some devices. Most of these devices are not Coast Guard Approved, and very few are evaluated by independent parties for safety or effectiveness. The proposed mandatory carriage requirement would be accompanied by a requirement that all such devices be Coast Guard Approved or certified to meet Coast Guard Specifications. This will greatly improve the reliability of the devices used, and decrease the chances of injury to a boater from a defective device.

Both the comments received and data collected by the Coast Guard indicate that this requirement should only apply to coastal waters and the high seas. Coastal waters would be defined as the territorial sea and the Great Lakes, and the bays and sounds which empty into those waters. The territorial sea is the band of water around the coast extending three miles out to sea. The high seas begin there. The requirement as proposed would not extend to coastal rivers. A river or other body of water would be considered to end at the first seaward point where the distance across is less than two miles. If a river or other body of water does not widen to two miles at all then the river or other body of water would be considered to end at a line drawn tangent to its headlands.

Several comments urged that the requirement apply to all waters. However, none provided any data supporting a universal requirement. The arguments in favor of a universal requirement centered on (1) the boater who operates on different bodies of water, and may or may not be aware of the requirement as a result; (2) the occurrence of distress situations on all waters and; (3) the complexity involved in enforcing a non-universal requirement.

While distress situations may occur on all waters, the Coast Guard does not have data that supports a requirement for these devices on all waters. such data is required by section 6 of the Federal Boat Safety Act of 1971 for rulemaking. Second, the Coast Guard does not expect this requirement to pose enforcement problems for either Coast Guard Boarding Officers or state enforcement personnel. There will be minimal reason for confusion about whether a boat must carry the device since the requirement is established by length of boat and a clear description of the waters where it applies. For the night requirement, the period of sunset to sunrise is easily identified, and is the basis of enforcement for current navigation light regulations. The Coast Guard has not encountered enforcement problems with those regulations to date. Finally, the Coast Guard will mount a major campaign to publicize this new requirement before it becomes effective. This will inform the boating public of what the requirement is, where it applies, and what devices meet the requirements.

The daytime requirement will apply to all boats 16 feet in length or larger. The decision to exempt boats under 16 feet from sunrise to sunset was based on several factors. First, SAR data collected by the Coast Guard indicate that these boats comprise only 12-14 percent of Coast Guard SAR cases. Second, data we have and independent surveys both indicate that the larger proportion of these boats operate during daylight and close to shore and are thus more likely to be sighted in a distress situation.

From sunset to sunrise all boats operating on the applicable waters must carry night visual distress signals. This is mandated by the difficulty in locating distressed craft during periods of darkness. Coast Guard SAR data show that the probability of detection at night increases 2 to 3 times when signals are displayed. Boats less than 16 feet long which operate on coastal waters will be well advised to carry these devices at all times in the event they end up on the water past sunset, whether by intent or due to breakdown.

The Advance Notice of Proposed Rulemaking suggested that devices should have a range of one nautical mile by day and three nautical miles by night. Support for this position was nearly unanimous. In addition, the demonstration conducted by the National Boating Safety Advisory Council's Sub-committee on Visual Distress Signals showed that large numbers of devices currently on the market can meet this range standard. Coast Guard SAR data support the three mile/night, one mile/day range standard. Approximately 86 percent of the recreational SAR cases occur within 3 miles of shore. In better than 90 percent of these cases, weather conditions have not been a significant factor hampering visibility. The Coast Guard proposes to incorporate this range standard into the requirement.

The Coast Guard spoke of an "Alerting" and a "Locating" function for signals in the Advance Notice. Very few comments addressed this subject except to note that both were important features for any device. The Coast Guard's assessment of these functions forms one element for decisions concerning device selection for this proposed rule.

Simply stated, the alerting function means that the signal indicates to an observer that the boat displaying the signal is in need of assistance. The locating function means that the signal enables the rescuer, be it the Coast Guard or another boater, to find and identify the boat needing assistance.

The Coast Guard considers range, sea conditions, and atmospheric conditions as critical factors in deciding what devices can meet the alerting and/or locating functions. To a certain extent these functions overlap.

Some devices can be both alerting and locating for a certain range. Beyond that distance, the signal may lose many alerting capabilities, but still can be an effective locator. Sea and atmospheric conditions act to decrease the range for both alerting and locating functions. Any device the Coast Guard would accept would have to serve both alerting and locating functions at a day range of one mile in moderate to poor weather, and a night range of three miles under the same conditions.

Our field tests show that there are devices which serve both the alerting and locating functions for the large majority of recreational boaters. That majority is considered to be those boaters who are within three miles of shore or in sight of another boat when they need assistance. This group represents 86 percent of the Coast guard's SAR cases in a given year. The Coast Guard recognizes that the remaining 14 percent of the SAR cases will have visual signaling needs that are not completely met by this proposed rule. However, we do not feel it is reasonable to impose on the 86 percent requirements which might meet the needs of the extreme 14 percent. Our

experience in the SAR area leads us to the conclusion that within that remaining 14 percent most are prudent seamen who tailor their equipment to their operational needs.

One comment urged the Coast Guard to require both an alerting device and a locating device appropriate for day and/or night use. The Coast Guard has not accepted this suggestion. We must question whether it is reasonable to require the boating public to carry a second device solely for the alerting function, when they are already carrying a device that serves this function for the great majority of SAR cases.

Three other elements, all interrelated, also had to be considered in deciding what devices would meet the proposed rule. These elements were reliability, safety, and cost.

The Coast Guard has concluded on the basis of our tests and research that no one device can be the most reliable, the safest, and have the lowest cost to the boater. Each device has strengths in one or more areas and weaknesses in at least one. There can be no "best" device for all boats, all boaters, or all distress situations.

What the Coast Guard has faced is a series of trade-offs. The goal has been to establish minimum criteria through specifications that all devices must meet in the areas of safety and reliability. At the same time, devices which meet these standards must be available at a cost which will not discourage boaters from buying them, and even more important, using the devices when they are needed.

Some of these criteria have already been discussed in this preamble. The device must serve both the alerting and locating functions for ranges of 1 mile during daytime and 3 miles at night. In addition, it must not pose a hazard to the boater when used or stowed according to the manufacturer's instructions. The Coast Guard estimates minimum initial retail cost to the boater to fully comply with the requirements, both day and night, will be about $10 per boat.

The basic Coast Guard policy in developing these criteria for Visual Distress Signals has been to establish minimum standards applicable to the full range of devices without unduly restricting the choices of consumers in selecting a device best suited to their particular situation, or of the industry in manufacturing devices to meet the demands of many different consumers. Since the Coast Guard proposal represents this minimum requirement, boaters will be expected to weigh the trade-offs involved with various types of signaling devices and exercise their own judgment as to which devices are best suited to their particular needs. The Coast Guard will assist boaters in this regard by acquainting them with the trade-offs involved in device selection through its educational programs. It is anticipated that industry marketing techniques will also contribute to consumer awareness of these trade-offs.

These trade-offs become most apparent when considering the lowest-priced items. Coast Guard data indicates that 3 approved hand-held red flares suitable for day and night signaling or the combination of an approved light for night signaling and an orange flag for day signaling will be the lowest priced items meeting the requirements of this proposed rule.

Considering first the day signal, the flag appears from Coast Guard tests to be as visible as the flare at a range of one mile. On bright days the flag may actually be more visible. The duration of the 500 candle-power flare is only required to be 2 minutes while the flag has indefinite duration. However, the flare is widely recognized as a distress signal and becomes more distinctive under haze conditions. In conclusion, the strong points for the flare appear to be its distinctive signal effectiveness under marginal visibility, and self-contained energy source. The strong points for the flag are its lack of hazards to the user, its long duration as a signal, its low cost, and the fact it is highly visible under very bright sunlight-on-water conditions.

A similar set of trade-offs takes place in weighing the advantages of Coast Guard approved flares and certified distress lights for night use. The flare provides a distinctive signal visible for a greater distance, but the light has longer signal generating duration. As far as shelf life, the flare is acceptable for at least 3 years, while dry cell batteries for the light have a manufacturer rated shelf-life of only 1 year, and thus must be replaced more often with a resultant higher cost. The light does provide the boater with a means of checking the signal, however, simply by turning it on. This is not possible with pyrotechnics. The light poses considerably less hazard to the boater and other occupants of the boat. However, the flares are lower in cost and meet both the day and night requirement, while the light is acceptable in meeting only the night requirement. So, once again, the boater must weigh the advantages of each device in terms of his or her own needs, and then make a choice.

A wide range of devices were suggested by respondents. Pyrotechnic hand-held and aerial flares, pyrotechnic smoke, strobe lights, flags, lights, mirrors, and dye were among those proposed. Mirrors and dye were not incorporated in the proposed rule, although they may be good secondary devices. A mirror is dependent on direct sunlight, which can be absent in many distress situations. The mirrors used at the Matapeake demonstration under thick haze conditions were not seen. Dye is effective in aerial searches, but almost indistinguishable when observed from other surface craft. Since most SAR assistance is from surface craft this device was not incorporated in the proposed rule. The Coast Guard does recommend these devices to the boating public as optional equipment. Under the right conditions they can be very effective.

Safety was a common concern throughout the comments. Some comments, citing a lack of stowage space and potential accessability to children, questioned the desirability of allowing pyrotechnic devices in small boats less than 16 feet long. Several comments addressed the fire hazard of device activation in gasoline-fueled boats. Finally, several States and other Federal Agencies were concerned about the environmental hazards, specifically land fires, which could be caused by pyrotechnic flares and aerials when used close to land.

These concerns, coupled with the lack of data showing significant need, led the Coast Guard to exempt boats under 16 feet (Class A) from the proposed daytime requirements and confine the requirement to coastal waters. However, the Coast Guard does feel that pyrotechnic flares and aerials have definite advantages as distress signal devices.

First, pyrotechnics supply their own energy needs. Unlike lights which need batteries or a flag which uses the light of the sun, a pyrotechnic flare does not need an external energy source. Second, pyrotechnic signals are immediately recognized as distress signals, even by untrained people. This becomes important since half of all distress cases are responded to by other boaters. For these reasons the Coast Guard proposes to accept pyrotechnic flares and aerials.

Under the proposed rule the Coast Guard also would accept orange smoke devices for daytime signals only. Orange smoke has performed very well as a signal in our tests, and is considered by the Coast Guard to be one of the most effective signals for daytime use. Both hand-held and floating devices are permitted by the proposed rule.

Our test results indicate that these devices must be approved, and must emit smoke for at least 50 seconds. Volume and density of the smoke are important factors in the device's effectiveness, and thus will be checked by a test involving use of a photometer and constant air flow through a chamber of fixed volume.

The Coast Guard also proposes to accept an electric hand-held light. This type of device was seen at Matapeake at the 3-mile minimum nighttime range. It was widely supported by

comments on the Advance Notice as well. To meet the requirement, the light must be certified by the manufacturer and tested. Lights must have a self-contained power source, be waterproof, corrosion resistant, equipped with a switch to facilitate signaling S-O-S, meet the intensity requirement of 5,000 candela, and maintain that intensity for 8 hours of continuous use, the duration of an average night. While such requirements will increase the cost of the device, they are essential if the device is to be reliable as a signaling device. Search and rescue incidents have shown that standard aluminum flashlights may corrode out in a period as short as a week when they are in a marine environment.

The Coast Guard feels that batteries and other power sources exist which are adequate to power the light and withstand the marine environment. The two factors of continuous duration and intensity effectively rule out common flashlights using 2 or 3 "D" cell batteries. In general the Coast Guard expects that most manufacturers will utilize lantern batteries of the 6-volt size to power the light. Batteries of this size meeting ANSI Standard C.18.1 have a rated duration of 10-14 hours. They also are much less prone to failure than the smaller "D" or "C" size batteries. The waterproof characteristics of the light will also improve the reliability of the battery by retarding the drying out which is responsible for many dry cell failures.

Some comments opposed flashing white lights or strobe lights being accepted as distress signals. The primary objections were: (1) Possible confusion of distress lights with other lights; and (2) Strobe lights not being sufficiently distinctive to indicate distress to an observer.

The Coast Guard has comments that automatic flashing white lights can be designed to emit a distinctive characteristic as opposed to the common flashing characteristic associated with strobe lights. Such a characteristic would greatly improve the chances that the light would stand out from other lights and be recognized as a distress signal. The characteristic which this proposal would require is the international distress signal S-O-S.

The Coast Guard is aware that many boaters have purchased conventional flashing white lights in the past few years. The lights were marketed as "Collision-avoidance", "Flare-up" or "Distress" lights. However, the Coast Guard cannot accept these flashing lights as distress signals. This decision is based on the fact that there are many flashing lights already present in the marine environment, among which are Aids to Navigation and collision avoidance lights. Because of the many different uses of flashing lights, lights not flashing S-O-S do not provide an alerting function indicating distress. Thus, they cannot satisfy the requirements for a distress signal.

In summary, the Coast Guard feels that the proposed rule adequately answers those objections raised against flashing white lights. The lights produced to the proposed specification will be a definite aid to people in all night rescue situations.

Some comments opposed acceptance of a flag as a visual distress signal. The principal arguments were that (1) it was not sufficiently distinctive at a distance to serve the alerting or locating functions; (2) it would only be visible to observers on the beam of the vessel; and (3) it would give boaters a "false sense of security."

The Coast Guard can recognize the concern that some parties feel concerning this device. However, this was the second most popular device cited by respondents with over 20 percent in favor, as compared to 21 percent supporting flares. At two separate demonstrations at Matapeake, flags were consistently sighted at distances greater than 1 mile, the minimum daytime range. In addition, few of the observers were on the vessel's beam when viewing the flags and banners. Finally, the experience cited by the State of Ohio, which currently requires carriage of a distress flag, indicates that this type of device can be very effective. The Coast Guard proposes to accept a flag that is international orange, at least 3 feet square, with a black square and disc superimposed. Flags of this type are already specified by the Canadian Government as boat distress signals and accepted by the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS).

Several comments urged the acceptance of radios and radio devices in lieu of visual distress signals. Despite the Coast Guard's strong endorsement of radio equipment as a means of alerting others to a distress situation, vessels with radios still need some type of visual signaling capability. This is because most radios depend on an exterior power source, either a battery or engine. A large number of boating mishaps involve loss of power or dead batteries. In such a situation a radio is useless. Emergency Position Indicating Radio Beacons (EPIRBs), which have self-contained batteries, provide an adequate homing signal down to about 1 mile. If there is more than one boat within a mile, the search unit cannot identify, on the basis of the EPIRB signal alone, which is the distressed craft. In addition, most boaters in need of assistance are aided by other boaters. Very few recreational boaters carry EPIRB monitoring or direction finding (df) equipment. As a result, the distressed boater would be unable to alert his most likely source of assistance.

Under the proposed rule of the Coast Guard will accept the following devices, when approved or certified, as meeting the carriage requirements:

Day only—hand held orange smoke; floating orange smoke; orange flag 36"x36" with black disc and square.

Night only—white electric distress light, automatic or manually operated; red aerial flare or meteor.

Day and night—hand held red flare; hand flare/smoke combination; red parachute flare.

Boats 16 feet and over subject to the requirement will be required to have both day and night signaling capability. Boats under 16 feet which operate between sunset and sunrise will be required to have only a night signal.

When a pyrotechnic signal device is selected by the boat operator, a minimum of three must be carried to satisfy the requirement. The Coast Guard proposes this number for the following reasons. First, once a pyrotechnic signal is activated, it has a fixed operating time. It cannot be extinguished and later reactivated. Second, the signal duration of pyrotechnic devices, which can be as short as 6 seconds, suggests that more than one device be carried because it is possible that an observer might not see one signal. Finally, there is no way that a pyrotechnic device can be tested to ensure it is operable. Thus, should one device be defective, a second and third should be available. Production testing and approval procedures will be required to ensure a high level of device reliability.

Also included in the proposed regulation is a prohibition against displaying distress signals "except in a distress situation where assistance is needed." This wording is taken from the 72 COLREGS. Readers should note, however, that this clause in the proposed regulation would apply only to operators of boats when on coastal waters. Shore display as part of training or education programs is permitted. In fact, the Goast Guard encourages training in the use and recognition of these signals.

Safety is a major component in considering any distress signal. The specifications for all devices incorporate safety factors for the potential user. However, it must be recognized that no device is safe when used contrary to stated instructions or procedures. The Coast Guard feels the tests and specifications proposed in the accompanying documents provide a significant margin of safety for the careful and prudent user of the device.

All devices except flags and lights must be approved. Flags must be certified by the manufacturer that they meet Coast Guard specifications for design, size, and color. Lights must

also be certified by the manufacturer that they conform to Coast Guard specifications. However, a prototype light must be tested by the manufacturer before the manufacturer sells the lights as certified.

Many States have restrictions on firearms, and some consider pyrotechnic pistols to be firearms. The list of devices was specifically designed to provide a choice of devices to the boat operator. The States may not modify boating laws to exclude any of the devices the Coast Guard Accepts, or require additional equipment in excess of Coast Guard requirements. This is due to section 10 of the Federal Boat Safety Act. However, in States where firearms laws restrict the marketing or use of some approved devices, other devices are available. The Coast Guard does not consider these State firearms laws to be affected by Federal preemption under section 10 of the FBSA. Thus, boaters must comply with State firearms laws when deciding what visual distress signal to carry.

A final issue with this proposal was its compatibility with the 72 COLREGS. Annex IV of that document specifies distress signals. All the visual distress signals included in this proposal are cited in that Annex. Thus, use of these signals is in agreement with that international treaty.

On May 23, 1977, the National Boating Safety Advisory Council, Visual Distress Signals Subcommittee met at the Maryland Marine Police Academy, Matapeake, Md. This meeting was open to the public and was previously announced in the FEDERAL REGISTER of Thursday, May 5, 1977 (Vol. 42 No. 87 p. 22968). The purpose of the meeting was to review and discuss a Coast Guard draft regulation for Visual Distress Signals.

As a result of this meeting, the Coast Guard received requests to meet with representatives of the Pyrotechnic Signal Manufacturers Association, Inc., and two light manufacturers. The Coast Guard agreed to the meetings in order to receive information concerning industrial ability to meet various technical specifications contemplated by the draft rule. The Coast Guard made no presentation at these meetings nor was there any agreement to change the draft rule in any way. The following meetings were held:

1. 14 June 1977, with representatives of the Pyrotechnic Signal Manufacturers Association, Inc.;

2. 23 June 1977, with representatives of ACR Electronics, Inc.;

3. 13 July 1977, with representatives of the Pyrotechnic Signal Manufacturers Association, Inc.; and

4. 11 August 1977, with a representative of Sea-Life, Inc.

Summaries of these meetings have been made part of the docket and are available for public inspection at the address previously noted.

This proposed regulation was presented to the National Boating Safety Advisory Council on December 14, 1977. This is required by section 6 of the FBSA. After considerable discussion, and with a minority of the council dissenting, a motion was adopted. The motion called on the Coast Guard to publish this proposed rule, with a minimum of 120 days for public comment.

Those council members opposed to the motion were opposed to the rule also. Their objections cited several arguments, but each member's major objections were based on different arguments.

Briefly summarized, these arguments were:

(1) The proposed rule was not demonstrably cost effective in terms of lives to be saved;

(2) An intensive education campaign would induce boaters to carry signals voluntarily, making an additional regulation unnecessary;

(3) Pyrotechnic devices pose unacceptable fire hazards and personnel hazards on boats;

(4) Some of the signals included may be inadequate under certain conditions;

(5) Proliferation of distress signals will lead to misuse and false alarms.

Section 5 of the Act requires at least a 6 month delay before a regulation becomes effective. This 6 month period begins when the regulation is published in the FEDERAL REGISTER as a final rule. The Coast Guard feels this time period will be ample for manufacturers to increase their production of signals. It will also provide sufficient time to widely publicized the regulation among the boating public.

The Coast Guard has viewed the economic impact of this requirement. The Coast Guard estimates on the basis of State registration data and population surveys that approximately 1.9 million boats will be subject to the requirement. Market data the Coast Guard has collected show that the minimum requirement can be met for $10. Prorated over the life of the device, the minimum cost to each boat operator will be about $3.34 per year. Thus, the economic impact of this proposal is expected to be about $19 million for the first 3 years.

In consideration of the foregoing, it is proposed:

1. To amend title 33, Code of Federal Regulations, part 175, by adding subpart C, Visual Distress Signals, which reads as follows:

PART 175—EQUIPMENT REQUIREMENTS

Subpart C—Visual Distress Signals

Sec.
175.101 Applicability.
175.103 Definitions.
175.110 Visual distress signals required.
175.112 Number of pyrotechnic signals.
175.113 Launchers.
175.1115 Exceptions.
175.120 Stowage.
175.125 Serviceability.
175.128 Marking.
175.130 Visual distress signals accepted.
175.135 Existing equipment.
175.140 Prohibited use.

AUTHORITY: Sec. 5, 85 STAT. 215; (46 USC 1454); 49 CFR 1.46(n)(1).

* * * * *

Subpart C—Visual Distress Signals

§ 175.101 Applicability.

(a) This subpart applies to boats on the coastal waters of the United States and on the high seas.

§ 175.105 Definitions.

(a) "Visual distress signal" means a device that is approved by the Commandant under 46 CFR part 160 or certified by the manufacturer under 46 CFR parts 160 and 161.

(b) "Coastal Waters" means the Great Lakes and the territorial seas of the United States, and the bays and sounds which empty into those waters. Rivers or other bodies of water, inside of a line drawn tangent to their headlands, are not included in "Coastal Waters" unless the distance across the river or other body of water is over 2 miles. All portions of a river or other body of water seaward of the first point where the distance narrows to 2 miles are included in "Coastal Waters".

§ 175.110 Visual distress signals required.

(a) No person may use a boat 16 feet or more in length or any boat carrying passengers unless visual distress signals suitable for day and night use as listed in § 175.130 or § 175.135, in the number required, are on board.

(b) Between sunset and sunrise, no person may use a boat less than 16 feet in length unless visual distress signals suitable for night use, as listed in § 175.130 or § 175.135, in the number required, are on board.

§ 175.112 Number of pyrotechnic signals.

(a) When a pyrotechnic signal is used to meet the requirement for visual distress signals, a minimum of three of these signals must be carried.

§ 175.113 Launchers.

(a) When the visual distress signal carried to meet the requirements of § 175.110 requires a launcher to activate, then a launcher approved under 46 CFR 160.028 must also be carried.

§ 175.115 Exceptions.

(a) A person competing in a Coast Guard or State approved marine parade, regatta, race, or similar event need not comply with § 175.110 between sunrise and sunset.

(b) A person using a manually propelled boat need not comply with § 175.110 between sunrise and sunset.

§ 175.120 Stowage.

(a) No person may use a boat unless the visual distress signal required by § 175.110 is readily accessible.

§ 175.125 Serviceability.

(a) No person may use a boat unless each signal required by § 175.110 is in serviceable condition and the service life of the signal, as indicated by the date marked on the signal, has not expired.

§ 175.128 Marking.

(a) No person may use a boat unless each signal required by § 175.110 is legibly marked with the approval number or certification statement as specified in 46 CFR parts 160 and 161.

§ 175.130 Visual distress signals accepted.

(a) The following signals, when carried in the number required, can be used to meet the requirements of § 175.110.

TABLE 175.130

Number marked on device	Device description	Accepted for use	Number required to be carried
160.021	Signals, distress, hand red flare, for merchant vessels.	Day and night	3
160.022	Signals, distress, floating, orange smoke (5 min) for merchant vessels.	Day only	3
160.023	Signals, distress, combination flare and smoke, hand, for merchant vessels.	Day and night	3
160.024	Signals, distress, pistol projected parachute red flare, for merchant vessels [1].	do	3
160.036	Signals, distress, hand-held rocket-propelled parachute red flare, for merchant vessels.	do	3
160.037	Signals, distress, hand, orange smoke, for merchant vessels.	Day only	3
160.057	Signals, distress, floating orange smoke (15 min), for merchant vessels.	do	3
160.066	Distress signal for boats, red aerial pyrotechnic flare, parachute assisted [2].	Day and night	3
160.066	Distress signal for boats, red aerial pyrotechnic flare [2].	Night only	3
160.072	Distress signal for boats, orange flag	Day only	1
161.013	Electric distress light for boats	Night only	1

[1] The above item must be used in combination with a suitable launching device approved under 46 CFR 160.028.

[2] Some of these signals may require use in combination with a suitable launching device approved under 46 CFR 160.028.

§ 175.135 Existing equipment.

(a) The following types of nonapproved pyrotechnic devices will be acceptable until June 1, 1979 in meeting § 175.110 so long as they remain in good and serviceable condition and are marked for "marine use".

(1) Pyrotechnic handheld red flares with a minimum candlepower of 500 C.P. for "day and night" signal requirement;

(2) Pyrotechnic aerial red flares, either hand held or pistol projected, for "night only" signal requirement;

(3) Pyrotechnic red parachute flares, either hand held or pistol projected, for "day and night" signal requirement;

(4) Pyrotechnic hand held orange smoke, for "day only" signal requirement.

§ 175.140 Prohibited use.

No person in a boat shall use a visual distress signal on waters to which this subpart applies under any circumstance except a distress situation where assistance is needed.

AUTHORITY: Sec. 5, 85 Stat. 215; (46 U.S.C. 1454); 49 CFR 1.46(n)(1).

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: April 5, 1978.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant

[FR Doc. 78-9470 Filed 4-7-78; 8:45 am]

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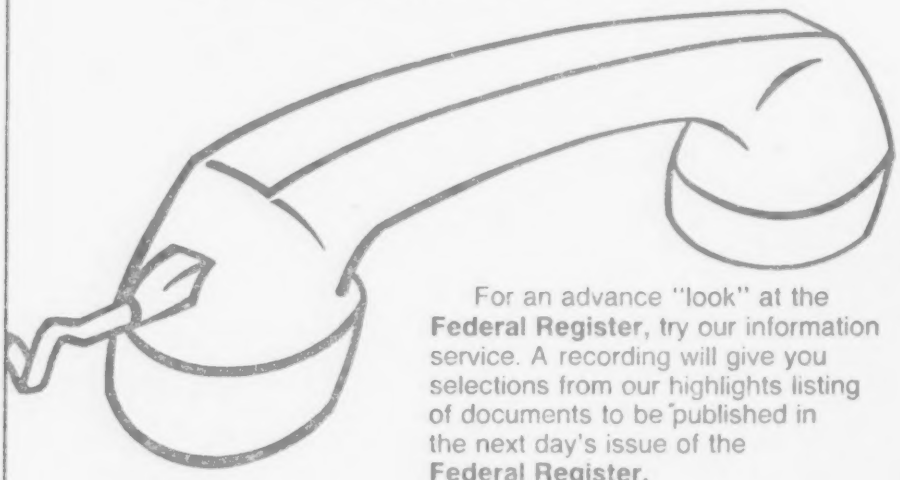

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